



# Memorandum

**TO:** RULES COMMITTEE**FROM:** Councilmember Sam Liccardo**SUBJECT:** CASINO M8TRIX: PAY UP, OR  
CLOSE DOWN**DATE:** May 14, 2014**APPROVED:**

5-14-14

**DIRECTION:**

Direct that:

- 1) The City Manager notify Casino M8trix of the City Manager's intention to commence proceedings in 30 days to suspend its gaming permit and any related licenses under Title 16, and any applicable conditional use or other land use permits for the club's operations, if Casino M8trix fails to pay the full amount due to Asian Americans for Community Involvement by that date, pursuant to its 2009 settlement with the City of San Jose.
- 2) The City Auditor and the City Manager conduct a full investigation of Casino M8trix's operations and financials to determine whether, in light of the apparent concealment of tens of millions of casino profits, the card club owes the City additional funds under the 15% cardroom tax, or any other City fees or taxes.
- 3) The City Attorney halt any Council consideration of proposed changes to the Municipal Code that would weaken or otherwise alter City gaming regulatory procedures, until the conclusion of the adjudication of the California Gambling Control Commission.
- 4) The City Manager to await adjudication of the Accusation filed by the state Attorney General before the California Gambling Control Commission, and upon findings of fraudulent concealment of funds, other gross illegality, or any finding which forms a basis for regulatory action on the part of the City, commence proceedings to revoke Casino M8trix's Title 16 gaming permit and any related licenses.

**DISCUSSION:**

On May 2<sup>nd</sup>, the California Attorney General filed an Accusation with the California Gambling Control Commission against Garden City/ Casino M8trix and various principals in that organization, namely Eric Swallow, Peter Lunardi, and family members (see Attachment #1). The Accusation alleged that over a course of several years, M8trix engaged in a scheme to defraud the City of San José and the State of California by hiding tens of millions of dollars. The Accusation sought forfeiture of the revocation or suspension of the entity's gambling license, and appropriate fines.

Specifically, under a 2009 settlement with the City of San José, M8trix had the obligation to pay 5.15% of its profits (before taxes, interest, depreciation, and amortization) to fund gambling addiction programs staffed by Asian Americans for Community involvement, or \$125,000, whichever is greater. The California Attorney General charged that for many years, M8trix reported little or no profits, and paid only the \$125,000.

In fact, the casino operators moved tens of millions of dollars to related, wholly-owned “shell” entities over that time, and considered those payments “expenses” to hide the profits, according to the Attorney General. For example,

- \$14 million was paid in “royalties” to “Profitable Casino LLC,” wholly owned by M8trix owner Eric Swallow;
- \$14 million was paid in “consulting fees” to Potere LLC”, owned by Peter Lunardi;
- \$38.5 million in “game royalties” were paid to “Dochee LLC,” wholly controlled by the Swallow Family Trust.

These and other payments established a pattern of criminal fraud that avoided state and federal tax obligations, state laws, as well as the settlement agreement with the City of San José, according to the Attorney General. Concluding that the continued operation of the casinos by their owners would be “inimical to public health, safety and welfare” because they are “not person[s] of good character, honesty, or integrity,” the Attorney General seeks revocation of their gaming license. The City should proceed similarly.

Against the recommendations of City Staff, and over my repeated objections, Council has sought to weaken regulatory oversight over card clubs at the insistence of Casino M8trix. In light of the recent action of California Attorney General Kamala Harris, this Council should halt any efforts to water down existing regulations, and should consider directing the City Manager to commence proceedings to revoke the permits.

**ATTACHMENT #1**

1 KAMALA D. HARRIS  
Attorney General of California  
2 SARA J. DRAKE  
Senior Assistant Attorney General  
3 WILLIAM P. TORNGREN  
Deputy Attorney General  
4 State Bar No. 58493.  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 323-3033  
Fax: (916) 327-2319  
7 E-mail: William.Torngren@doj.ca.gov  
*Attorneys for the Complainant.*  
8

9 **BEFORE THE**  
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**  
11 **STATE OF CALIFORNIA**  
12

13  
14 **In the Matter of the Accusation Against:**  
15 **GARDEN CITY, INC., doing business as**  
16 **CASINO M8TRIX (GEOW-000410);**  
17 **ERIC G. SWALLOW (GEOW-001330);**  
18 **PETER V. LUNARDI III (GEOW-001331);**  
19 **JEANINE LYNN LUNARDI (GEOW-**  
20 **003119); and**  
21 **THE LUNARDI FAMILY LIVING**  
22 **TRUST, dated August 27, 2008 (GEOW-**  
23 **003259).**  
1887 Matrix Boulevard  
San Jose, CA 95110

24 **Respondents.**  
25  
26  
27  
28

**BGC Case No. HQ2014-00001AL**

**OAH No.**

**ACCUSATION**

1 Complainant alleges as follows:

2 PARTIES

3 1. Wayne J. Quint, Jr. (Complainant) brings this Accusation solely in his official  
4 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control  
5 (Bureau).

6 2. At all times relevant herein, Respondent Garden City, Inc. (Garden City) was a  
7 licensed gambling enterprise, California State Gambling License Number GEGE-000410. That  
8 license will expire on May 31, 2014, unless extended. Garden City does business as Casino  
9 M8trix at 1887 Matrix Boulevard in San Jose, California. It is a 49-table card room.

10 3. Respondent Eric G. Swallow (Swallow), license number GEOW-001330, is a  
11 shareholder of Garden City and endorsed on its license. Respondent Peter V. Lunardi III (Peter  
12 Lunardi), license number GEOW-001331, was a shareholder of Garden City, is a trustee of  
13 Respondent Lunardi Family Living Trust, dated August 27, 2008 (Lunardi Trust), and is  
14 endorsed on Garden City's license. Respondent Jeanine Lynn Lunardi (Jeanine Lunardi),  
15 license number GEOW-003119, also was a shareholder of Garden City, is a trustee of the  
16 Lunardi Trust, and is endorsed on Garden City's license. The Lunardis are husband and wife.  
17 On August 12, 2010, the California Gambling Control Commission (Commission) approved the  
18 transfer of the Lunardis' shares, and issued license number GEOW-003259, to the Lunardi  
19 Trust, which then was endorsed on Garden City's license. Swallow and the Lunardi Trust each  
20 own 50 percent of Garden City's stock and constitute all of its shareholders. Their licenses will  
21 expire on May 31, 2014, unless extended.

22 4. Collectively, Garden City, Swallow, Peter Lunardi, Jeanine Lunardi, and the Lunardi  
23 Trust are referred to as "Respondents" in this Accusation.

24 STATEMENT OF THE CASE

25 5. This case seeks to discipline Respondents' licenses – by revocation, suspension,  
26 and/or fine as appropriate – for persistent and repeated violations of, and lack of suitability for  
27 continued licensing under, the Gambling Control Act (Act) and the regulations adopted  
28 pursuant to the Act. As alleged in this Accusation, Respondents provided untrue and

1 misleading information to the Bureau and others, failed to provide information requested by the  
2 Bureau, engaged in self-dealing to siphon off monies for themselves and reduce reported net  
3 income, and benefited from payments prohibited by the Act. The acts and omissions alleged in  
4 this Accusation are inimical to the public health, safety, and welfare; those acts and omissions  
5 demonstrate that Respondents are not persons of good character, honesty, and integrity. Their  
6 acts and omissions, as alleged in this Accusation, pose a threat to the effective regulation and  
7 control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or  
8 illegal practices, methods, and activities in carrying on the business and financial arrangements  
9 incidental to the conduct of controlled gambling. Respondents' acts and omissions not only  
10 impeded the Bureau's investigation and fact gathering, but also effectively reduced potential  
11 payments to charities located in the City of San Jose. Respondents are not suitable or qualified  
12 for continued licensure; therefore, each of their licenses should be disciplined.

#### 13 FACTUAL BACKGROUND

14 6. Respondents operate, and operated in the past, through a maze of affiliated entities.  
15 Money flows between those entities without documentation or relationship to the value of  
16 services provided. This is Respondents' standard practice. In response to the Bureau's request  
17 for invoices relative to payments involving millions of dollars annually, Swallow responded:

18 There are no invoices. It has been agreed upon by ownership as  
19 standard practice to estimate the annual payment for the year per the  
20 agreement and then make monthly payments based on available cash  
21 flow to give the Casino [Garden City] operational flexibility.

21 In addition, Respondents' agent has written:

22 Whether the money came from companies owned by the individual  
23 applicants or the individual applicants makes no difference as they  
ultimately are the same individuals.

24 Exhibit A, which is attached and incorporated by reference, illustrates the maze of affiliated  
25 entities and transactions. It also sets forth the flow of funds, as well as certain entities and  
26 persons affiliated with or employed by Respondents.

1 7. Garden City has been licensed as a card room in the City of San Jose since  
2 approximately 1976. In 1998, it filed for bankruptcy protection. In 2005, Swallow, Peter  
3 Lunardi, and Jeanine Lundardi, along with Dina DiMartino, entered into a stock purchase  
4 agreement to acquire Garden City's stock from the bankruptcy trustee under a proposed  
5 reorganization plan. On January 5, 2006, the Commission approved the stock purchase  
6 agreement. On March 22, 2007, Ms. DiMartino withdrew her state gambling license  
7 application. Swallow, Peter Lunardi, and Jeanine Lunardi purchased all issued and outstanding  
8 stock in Garden City in 2007. The Commission first endorsed Swallow, Peter Lundardi, and  
9 Jeanine Lunardi on Garden City's license on March 1, 2007. In August 2010, Peter Lunardi  
10 and Jeanine Lunardi transferred their shares to the Lunardi Trust.

11 8. On May 25, 2007, Dolchee LLC (Dolchee) was formed as a California limited  
12 liability company. At all times since formation, its only members have been Swallow and Peter  
13 Lunardi. In 2007 and 2008, Dolchee filed for trademarks on "Baccarat Gold." Dolchee has no  
14 other trademarks registered in its name with the United States Patent and Trademark Office. On  
15 December 31, 2008, Dolchee was converted out of California to be a Nevada limited liability  
16 company. By an undated License Agreement made as of January 1, 2009, Dolchee agreed to  
17 provide certain denominated games to Garden City for a monthly minimum payment of  
18 \$400,000, or \$4.8 million annually. The agreement does not contain any provision for  
19 determining any amount above the minimum. Between January 1, 2009, and December 31,  
20 2012, Garden City's payments to Dolchee totaled \$38,482,000; during that time period, Garden  
21 City always paid more than the minimum annually. Swallow advised the Bureau that no  
22 invoices or similar documents exist with respect to the payments exceeding the minimum.

23 9. On July 21, 2008, Profitable Casino LLC (Profitable Casino) was formed as a  
24 California limited liability company. Its sole member is Swallow. On December 31, 2008,  
25 Profitable Casino was converted out of California to be a Nevada limited liability company. By  
26 an undated Application Service Provider Agreement made as of January 1, 2009, Profitable  
27 Casino agreed to provide access to certain computer applications to Garden City for a monthly  
28 minimum consulting fee of \$400,000, or \$4.8 million annually. Profitable Casino was to

1 invoice Garden City for any fees exceeding the minimum. Between January 1, 2009, and  
2 December 31, 2012, Garden City's payments to Profitable Casino totaled \$14,050,000.  
3 Swallow advised the Bureau that no invoices or similar documents exist with respect to the  
4 payments.

5 10. On December 31, 2008, Potere LLC (Potere) was formed as a Nevada limited  
6 liability company. Its sole member is Peter Lunardi. By an undated Vendor Contractor  
7 Agreement made as of January 1, 2009, Potere agreed to provide general business consulting to  
8 Garden City for a monthly minimum consulting fee of \$400,000, or \$4.8 million annually.  
9 Potere was to invoice on a monthly basis for all hours worked and to provide services on  
10 Garden City's premises during regular business hours. Between January 1, 2009, and  
11 December 31, 2012, Garden City's payments to Potere totaled \$14,050,000, which was equal to  
12 the payments made to Profitable Casino. Swallow advised the Bureau that no invoices or  
13 similar documents exist with respect to the payments.

14 11. On or about March 8, 2009, Garden City reached a tentative settlement with the City  
15 of San José. Under the settlement's terms, Garden City agreed to pay to a selected charity  
16 \$500,000 annually until June 30, 2011. Thereafter, the annual payment to the selected charity  
17 would be the greater of \$125,000 or 5.15 percent of Garden City's net income before interest,  
18 taxes, depreciation, and amortization (EBITDA). City of San Jose officials understood that  
19 5.15 percent of Garden City's EBITDA would be approximately \$250,000.

20 12. Garden City accounted for its payments to Dolchee, Profitable Casino, and Potere as  
21 expenses, and not as dividends or distributions to its owners. As a consequence of expensing  
22 those payments, Garden City's net income ranged between approximately minus 0.31 percent  
23 and 1.42 percent of its gross gaming revenues between January 1, 2009, and December 31,  
24 2012. For three of those four years, Garden City's net income was essentially zero. Other card  
25 rooms in California of similar size as Garden City reported net income that averaged  
26 approximately 10 percent of gross gaming revenues over the same period.

27 13. On April 1, 2009, Dolchee entered into a licensing agreement for Baccarat Gold with  
28 an California tribal casino. The monthly payment under that licensing agreement is \$1,200 per



1 table per month. On June 1, 2009, Dolchee entered into a licensing agreement for Baccarat  
2 Gold with a card room other than Garden City. The monthly payment under that licensing  
3 agreement is \$1,200 per table per month for a minimum of two tables. On November 17, 2009  
4 – 11 months after the effective date of the License Agreement described above in paragraph 8 –  
5 a patent for Baccarat Gold was issued to Scott Hayden, who is Garden City's general manager.  
6 Mr. Hayden subsequently assigned the patent to Dolchee for no payment.

7 14. On November 25, 2009, Airport Parkway Two LLC (Airport Parkway) was formed  
8 as a California limited liability company. Its sole member is Airport Opportunity Fund LLC  
9 (Airport Fund), which was formed as a Delaware limited liability company on December 3,  
10 2009. Airport Fund's members are the Lunardi Trust and the Eric Swallow and Deborah  
11 Swallow Family Trust, dated August 31, 2004 (Swallow Trust), the trustees of which are  
12 Swallow and his wife Deborah. Each trust owns a 50-percent interest in Airport Fund. Neither  
13 the Swallow Trust nor Deborah Swallow has, or has applied for, a state gambling license.

14 15. On January 20, 2010, Airport Parkway closed an \$8 million real estate purchase.  
15 Airport Parkway used approximately \$2 million provided by Dolchee, Profitable Casino, and  
16 Potere as a down payment and financed the \$6 million balance with a commercial lender.  
17 Subsequently, on March 22, 2011, an additional financing with that same commercial lender  
18 closed. The real property was improved with a new eight-story building to house gambling,  
19 entertainment, restaurant, meeting, office, and other facilities. The property's address was  
20 changed to 1887 Matrix Boulevard.

21 16. As part of Respondents' plan to open a new casino at 1887 Matrix Boulevard, Casino  
22 M8trix, Inc. was formed as a Nevada corporation. Its shareholders were Swallow and the  
23 Lunardi Trust. Less than a month after its formation, Casino M8trix, Inc. entered into a lease  
24 with Airport Parkway to lease 1887 Matrix Boulevard in its entirety for an annual rent of  
25 \$7,209,572, which equals \$70.68 per square foot. As part of the March 22, 2011 additional  
26 financing, Casino M8trix, Inc. gave a security interest in all of its property to the commercial  
27 lender. On September 6, 2011, Casino M8trix, Inc. submitted an initial application for a state  
28 gambling license to the Commission. The Bureau initiated an investigation in connection with

1 that application. In April 2012, after learning that the City of San Jose viewed transferring a  
2 city gambling license from one entity to another, would result in the license's termination,  
3 Airport Parkway and Garden City entered into a lease for 1887 Matrix Boulevard that was  
4 backdated to January 1, 2011. That lease was substantively identical to what Casino M8tix, Inc.  
5 previously executed.

6 17. On January 21, 2010, Team View Player Services, LLC (Team View Player Services)  
7 was formed as a California limited liability company. Its sole member is Timothy M. Gustin.  
8 On February 22, 2010, Secure Stone, LLC (Secure Stone) was formed as a Delaware limited  
9 liability company. Its sole member is Deborah Swallow. Its address is the same as Airport  
10 Fund's. On May 1, 2010, pursuant to an agreement dated March 30, 2010, and signed by Peter  
11 Lunardi and Mr. Gustin, Team View Player Services agreed to provide third-party proposition  
12 player services at Garden City. On the same date, Team View Player Services entered into a  
13 contract with Team View Player Associates, LLC (Team View Associates), which was owned  
14 solely by Mr. Gustin and which, in turn, entered into an agreement with Secure Stone.

15 18. In November 2010, Team View Associates entered into a contract with Optimum  
16 Solutions Consulting, Inc., a Wyoming corporation owned solely by Scott Hayden, who is  
17 Garden City's general manager and a key employee. Team View Associates entered into other  
18 agreements with entities owned by Mr. Hayden or his family members. Pursuant to those  
19 agreements, Team View Associates has paid more than \$850,000 since November 2010.  
20 Complainant presently is investigating Mr. Hayden with respect to those payments, as well as  
21 other conduct.

22 19. On June 6, 2012, LAX Property, LLC (LAX) was formed as a Delaware limited  
23 liability company. Its sole member was Swallow. Its address was the same as Secure Stone's  
24 and Airport Fund's. Thereafter LAX entered into a series of agreements with Hollywood Park  
25 Casino Company, Inc. (Hollywood Park). The agreements' essence was for LAX to lease and  
26 operate Hollywood Park's casino and card room in Inglewood, California. Towards  
27 accomplishing that, LAX and Swallow applied to the Commission for gambling licenses. The  
28 Bureau initiated an investigation in connection with those applications.



1 Section 19857, and "disqualified person" means a person who is found to  
2 be disqualified pursuant to the criteria set forth in Section 19859.

3 24. Business and Professions Code section 19824 provides, in part:

4 The commission shall have all powers necessary and proper to enable  
5 it fully and effectually to carry out the policies and purposes of this  
6 chapter, including, without limitation, the power to do all of the following:

7 \*\*\*

8 (b) For any cause deemed reasonable by the commission, . . . limit,  
9 condition, or restrict any license, permit, or approval, or impose any fine  
10 upon any person licensed or approved. The commission may condition,  
11 restrict, discipline, or take action against the license of an individual owner  
12 endorsed on the license certificate of the gambling enterprise whether or  
13 not the commission takes action against the license of the gambling  
14 enterprise.

15 \*\*\*

16 (d) Take actions deemed to be reasonable to ensure that no ineligible,  
17 unqualified, disqualified, or unsuitable persons are associated with  
18 controlled gambling activities.

19 25. Business and Professions Code section 19826 provides, in part:

20 The department<sup>1</sup> . . . shall have all of the following responsibilities:

21 \*\*\*

22 (c) To investigate suspected violations of this chapter or laws of this  
23 state relating to gambling . . .

24 \*\*\*

25 (e) To initiate, where appropriate, disciplinary actions as provided in  
26 this chapter. In connection with any disciplinary action, the department  
27 may seek restriction, limitation, suspension, or revocation of any license or  
28 approval, or the imposition of any fine upon any person licensed or  
approved.

29 26. California Code of Regulations, title 4, section 12554 provides, in part:

30 (a) Upon the filing with the Commission of an accusation by the  
31 Bureau recommending revocation, suspension, or other discipline of a  
32 holder of a license, registration, permit, finding of suitability, or approval,

33 <sup>1</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.  
34 (h).)

1 the Commission shall proceed under Chapter 5 (commencing with section  
2 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

3 \* \* \*

4 (d) Upon a finding of a violation of the Act, any regulations adopted  
5 pursuant thereto, any law related to gambling or gambling establishments,  
6 violation of a previously imposed disciplinary or license condition, or laws  
7 whose violation is materially related to suitability for a license,  
8 registration, permit, or approval, the Commission may do any one or more  
9 of the following:

10 (1) Revoke the license, registration, permit, finding of suitability,  
11 or approval;

12 (2) Suspend the license, registration, or permit;

13 \* \* \*

14 (5) Impose any fine or monetary penalty consistent with  
15 Business and Professions Code sections 19930, subdivision (c), and  
16 19943, subdivision (b)

#### 17 COST RECOVERY

18 27. Business and Professions Code section 19930 provides, in part:

19 (b) If, after any investigation, the department is satisfied that a license,  
20 permit, finding of suitability, or approval should be suspended or revoked, it  
21 shall file an accusation with the commission in accordance with Chapter 5  
22 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
23 Government Code.

24 \* \* \*

25 (d) In any case in which the administrative law judge recommends that  
26 the commission revoke, suspend, or deny a license, the administrative law  
27 judge may, upon presentation of suitable proof, order the licensee or  
28 applicant for a license to pay the department the reasonable costs of the  
investigation and prosecution of the case.

(1) The costs assessed pursuant to this subdivision shall be fixed  
by the administrative law judge and may not be increased by the  
commission. When the commission does not adopt a proposed decision  
and remands the case to the administrative law judge, the administrative  
law judge may not increase the amount of any costs assessed in the  
proposed decision.

(2) The department may enforce the order for payment in the superior court in the county in which the administrative hearing was held. The right of enforcement shall be in addition to any other rights that the division may have as to any licensee to pay costs.

(3) In any judicial action for the recovery of costs, proof of the commission's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

\* \* \*

(f) For purposes of this section, "costs" include costs incurred for any of the following:

(1) The investigation of the case by the department.

(2) The preparation and prosecution of the case by the Office of the Attorney General.

#### **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

28. Business and Professions Code section 19850 provides, in part:

Every person . . . who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, or carrying on any controlled game in this state, shall apply for and obtain from the commission, and shall thereafter maintain, a valid state gambling license, key employee license, or work permit . . . In any criminal prosecution for violation of this section, the punishment shall be as provided in Section 337j of the Penal Code.

29. Business and Professions Code section 19855 provides, in part:

[E]very person who, by statute or regulation, is required to hold a state license shall obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required.

30. Business and Professions Code section 19857 provides:

No gambling license shall be issued unless, based on all the information and documents submitted, the commission is satisfied that the applicant is all of the following:

(a) A person of good character, honesty and integrity.

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of

1 controlled gambling or in the carrying on of the business and financial  
2 arrangements incidental thereto.

3 (c) A person that is in all other respects qualified to be licensed as  
4 provided in this chapter.

5 31. Business and Professions Code section 19859 provides, in part:

6 The commission shall deny a license to any applicant who is  
7 disqualified for any of the following reasons:

8 (a) Failure of the applicant to clearly establish eligibility and  
9 qualification in accordance with this chapter.

10 (b) Failure of the applicant to provide information,  
11 documentation, and assurances required by the Chief, or failure of  
12 the applicant to reveal any fact material to qualification, or the  
13 supplying of information that is untrue or misleading as to a material  
14 fact pertaining to the qualification criteria.

15 32. Business and Professions Code section 19866 provides:

16 An applicant for licensing or for any approval or consent required  
17 by this chapter, shall make full and true disclosure of all information  
18 to the department and the commission as necessary to carry out the  
19 policies of this state relating to licensing, registration, and control of  
20 gambling.

21 33. Business and Professions Code section 19920 provides:

22 It is the policy of the State of California to require that all  
23 establishments wherein controlled gambling is conducted in this state  
24 be operated in a manner suitable to protect the public health, safety,  
25 and general welfare of the residents of the state. The responsibility for  
26 the employment and maintenance of suitable methods of operation  
27 rests with the owner licensee, and willful or persistent use or toleration  
28 of methods of operation deemed unsuitable by the commission or by  
local government shall constitute grounds for license revocation or  
other disciplinary action.

34. Business and Professions Code section 19922 provides:

No owner licensee shall operate a gambling enterprise in violation  
of any provision of this chapter or any regulation adopted pursuant to  
this chapter.

35. Business and Professions Code section 19923 provides:

No owner licensee shall operate a gambling enterprise in violation  
of any governing local ordinance.

36. Business and Professions Code section 19984, subdivision (a) provides:

1 Notwithstanding any other provision of law, a licensed gambling  
2 enterprise may contract with a third party for the purpose of providing  
3 proposition player services at a gambling establishment, subject to the  
4 following conditions:

5 (a) Any agreement, contract, or arrangement between a gambling  
6 enterprise and a third-party provider of proposition player services  
7 shall be approved in advance by the department, and in no event shall  
8 a gambling enterprise or the house have any interest, whether direct or  
9 indirect, in funds wagered, lost, or won.

10 37. California Code of Regulations, title 11, section 2070, subdivisions (a) and (b)  
11 provide:

12 It shall be an unsuitable method of operation for a gambling  
13 establishment to:

14 (a) Offer for play any game that is prohibited or made unlawful  
15 by statute, local ordinance, regulation or final judgment by a  
16 competent court of law; [and]

17 (b) Offer for play any gaming activity which is not authorized by  
18 the Bureau pursuant to the [Gambling Control] Act and these  
19 regulations for play at that gambling establishment[.]

20 38. San Jose Municipal Code, title 16, section 16.18.010, subdivision B provides:

21 It shall be illegal for a Cardroom Permittee, Owner, or Employee  
22 to permit, allow, or suffer the playing of any Controlled Game except  
23 Permissible Games.

24 39. San Jose Municipal Code, title 16, section 16.18.040, subdivision B, provides:

25 B. No Game shall be played at any permitted Cardroom unless:

26 1. It is listed as a Permissible Game or a substitution is authorized  
27 by the Administrator pursuant to this Chapter, and

28 2. It is a Controlled Game pursuant to State Gambling Law.

40. San Jose Municipal Code, title 16, section 16.32.080 provides:

An Applicant for licensing and every Licensee shall make full and  
true disclosure of all information the Administrator requires in order to  
carry out the requirements and policies of this Title.



**FIRST CAUSE FOR DISCIPLINE  
AGAINST RESPONDENT SWALLOW'S LICENSE**

**(Prohibited Interests in the Funds Wagered, Lost, or Won by a Third-Party Provider)**

41. Swallow's license is subject to discipline, pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b). Swallow's continued licensure is inimical to public health, safety, and welfare. Swallow is not a person of good character, honesty, and integrity. His prior activities pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. Swallow had an indirect interest in funds wagered, lost, or won by Team View Player Services, which provided third-party proposition player services to Garden City. Specifically, Secure Stone, a Delaware limited liability company the sole member of which is Swallow's wife, received payments totaling approximately \$3.6 million from Team View Associates, the sole member of which is Mr. Gustin, who is Team View Player Services's sole member. Those payments were made in 2010, 2011, and 2012. Business and Professions Code section 19984, subdivision (a) prohibits the receipt of such payments.

**SECOND CAUSE FOR DISCIPLINE  
AGAINST RESPONDENT GARDEN CITY'S LICENSE**

**(Prohibited Interests in the Funds Wagered, Lost, or Won by a Third-Party Provider)**

42. Garden City's license is subject to discipline, pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b). Garden City's continued licensure is inimical to public health, safety, and welfare. Its prior activities pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. Garden City had a direct or indirect interest in funds wagered, lost, or won by Team View Player Services. Specifically, Garden City's third-party provider contract provided for

1 Team View Player Services to pay \$2,226,000 annually. Of that amount, 50 percent, or  
2 \$1,113,000, purportedly was paid for parking, a designated area on the casino floor, and use of  
3 casino area for meetings with employees. In fact, Team View Player Services's employees  
4 were not allowed to park on the Casino M8trix property, and Team View Player Services  
5 increased their compensation to offset the costs of parking offsite. Moreover, Team View  
6 Player Services did, and does, not use the casino area for employee meetings. Team View  
7 Player Services's designated area on the premises is 400 square feet. In sum, Garden City  
8 receives more than \$1.1 million annually for renting 400 square feet; that fee is substantially  
9 disproportionate to the facilities provided. Business and Professions Code section 19984,  
10 subdivision (a) prohibits the receipt of such payments.

11 **THIRD CAUSE FOR DISCIPLINE**  
12 **AGAINST ALL RESPONDENTS' LICENSES**

13 **(Prohibited Interests in the Funds Wagered, Lost, or Won by a Third-Party Provider)**

14 43. Respondents' licenses are subject to discipline, pursuant to Business and Professions  
15 Code sections 19823, 19857, subdivisions (a) and (b), 19859, subdivisions (a) and (b), and  
16 19920. Each Respondent's continued licensure is inimical to public health, safety, and welfare.  
17 Respondents' prior activities pose a threat to the effective regulation and control of controlled  
18 gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods,  
19 and activities in carrying on the business and financial arrangements incidental to the conduct of  
20 controlled gambling. Respondents knew of, should have known of, were willfully ignorant of,  
21 allowed to occur, assisted, abetted and/or tolerated other Respondents having direct or indirect  
22 interests in funds wagered, lost, or won by Team View Player Services as alleged above. In  
23 violation of Business and Professions Code section 19920, each Respondent failed to fulfill his,  
24 her, or its responsibility to employ and maintain suitable methods of operation by willfully and  
25 persistently tolerating methods of operation that allowed receipt of payments prohibited by  
26 Business and Professions Code section 19984, subdivision (a).

**FOURTH CAUSE FOR DISCIPLINE  
AGAINST RESPONDENT SWALLOW'S LICENSE  
(Providing False or Misleading Information to the Bureau)**

44. Swallow's license is subject to discipline, pursuant to Business and Professions Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).

Swallow's continued licensure is inimical to public health, safety, and welfare. Swallow is not a person of good character, honesty, and integrity and his prior activities pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. Swallow, or his agents, supplied untrue or misleading information as to material facts pertaining to his qualification criteria. Specifically, the false or misleading information included, among other things and without limitation, the following:

(a) Swallow represented that a written accountant's opinion existed regarding the pricing for certain dealings between Garden City and entities affiliated with or controlled by Swallow. In response to the Bureau's repeated requests, Swallow made misleading statements as to the opinion's existence. No written opinion has been provided.

(b) In a license application signed on July 6, 2012, Swallow represented that he was separated from his wife, Deborah Swallow. In July and August 2013, when responding to the Bureau's inquiries, his agents repeated the representation that Swallow was separated from Deborah Swallow; in doing so, they gave differing separation dates. However, Swallow and Deborah Swallow were not separated. Instead, they moved from California to Nevada, lived there in the same house, returned to California, and lived together in the same residence. On October 9, 2013, Deborah Swallow filed for dissolution of their marriage in Los Angeles County Superior Court. In the dissolution matter, both she and Swallow have declared under penalty of perjury that their date of separation was October 8, 2013.

1 (c) Swallow's agent represented to the Bureau that payments exceeding \$1.4 million  
2 received by Deborah Swallow in 2010 from Secure Stone related to the sale of her dental  
3 practice. Those payments did not relate to the sale of her dental practice; the payments  
4 came indirectly from Team View Player Services in violation of Business and Professions  
5 Code section 19984, subdivision (a).

6 (d) By letter dated July 10, 2013, Swallow's agent represented that Deborah Swallow  
7 had "no interest in Casino M8trix" and that her business affairs were independent of  
8 Swallow's. Her business affairs were not independent of his in all respects. For example,  
9 at the time of the representation, Deborah Swallow was a trustee of the Swallow Trust,  
10 which had a 50-percent membership interest in Airport Fund, which in turn was the only  
11 member of Airport Parkway, which owns 1887 Matrix Boulevard. Additionally, the  
12 Swallow Trust received at least \$3.2 million in indirect payments from Garden City  
13 through Dolchee. As a further example of the dependence of their business affairs, filings  
14 with the Nevada Secretary of State report that Deborah Swallow's personal property  
15 secures repayment of loans made to Casino M8trix, Inc. and Airport Parkway.

16 (e) Swallow represented that certain games and software licensed by his affiliates,  
17 Dolchee and Profitable Software, were confidential and proprietary, and had combined  
18 fair values exceeding \$90 million. The games and software were not treated as  
19 confidential and did not have the fair value represented by Swallow. The total cash  
20 investment in developing the games and software was approximately \$15,000. No money  
21 had been paid for the patent assignment for Baccarat Gold. That game was provided to  
22 other casinos for \$1,200 per table per month. In response to the Bureau's request,  
23 Swallow never provided any written confidentiality, nondisclosure, trade secret, or similar  
24 agreements between either Dolchee or Profitable Software, on the one hand, and any  
25 person who had participated in the development, programming, or maintenance of the  
26 games or software, on the other.

27 (f) Swallow represented that the payments made by Garden City to Profitable Casino  
28 were based upon the proprietary nature and competitive advantage derived from software

1 provided by Profitable Casino. All or a portion of the payments to Profitable Casino were  
2 dividends or distributions paid to Swallow. Nonetheless, they were expensed by Garden  
3 City. The payments to Profitable Casino were equal to payments made by Garden City to  
4 Potere. No justification or substantiation was required for the payments made to Potere.  
5 Those payments were based on Garden City's cash flow and net income; they in effect  
6 were dividends or distributions paid to Peter Lunardi that also were expensed by Garden  
7 City.

8 (g) Swallow caused a valuation of games and software owned by Dolchee and  
9 Profitable Casino to be prepared by Grant Thornton (GT Report) and submitted to the  
10 Bureau. The GT Report was false and misleading. Among other things, it represented  
11 that Garden City licensed a number of card games from Dolchee, including Baccarat  
12 Gold, Double Hand Poker Gold, Pai Gow Tiles Gold, Texas Hold'em Gold, and Omaha  
13 Gold (collectively, Dolchee Games) and that those games had unique rules, betting  
14 options, and visual layouts, which are variations of some well-known casino games. But  
15 only one of those games -- Baccarat Gold -- was patented or copyrighted. Garden City  
16 never has received approvals from the Bureau to play the Dolchee Games known as Pai  
17 Gow Tiles Gold, Texas Hold'em Gold, or Omaha Gold. Garden City never has received  
18 approvals from the City of San Jose to play any of the Dolchee Games other than Baccarat  
19 Gold. The versions of the Dolchee Games, other than Baccarat Gold, approved by the  
20 Bureau for play at Garden City did not have any unique rules or betting options.

21 (h) The GT Report represented that Garden City licensed Pai Gow Poker and  
22 Ultimate Texas Hold'em games from ShuffleMaster, a well-known provider of table  
23 games to California card rooms, and then turned those games over to Dolchee for  
24 rebranding. In preparing the valuation, Grant Thornton was acting as an agent of  
25 Swallow, who was the source of information that it used. The GT Report was false and  
26 misleading with respect to the so-called "rebranding" of ShuffleMaster games. In truth,  
27 ShuffleMaster's agreements provide that a "Customer shall not make any modification to  
28 the [game], nor shall it remove or reproduce the [game] . . . ." Under its ShuffleMaster

1 agreements, Garden City had no power to sublicense the games. In response to the  
2 Bureau's requests, Swallow failed to provide any documentation showing modification,  
3 rebranding, or sublicensing of games provided by ShuffleMaster or any other vendor.

4 (i) The GT Report represented that between January 1, 2010, and December 31,  
5 2012, Garden City made payments totaling \$9,050,000 each to Profitable Casino and  
6 Potere. However, during the Bureau's investigation, Swallow represented that for the  
7 same period, Garden City's payments totaled \$8,950,000 each to Profitable Casino and  
8 Potere.

9 (j) The GT Report represented that in 2010, Garden City made payments totaling  
10 approximately \$8.7 million to Dolchee. However, during the Bureau's investigation,  
11 Swallow represented that for the same period, Garden City's payments totaled  
12 approximately \$7.2 million to Dolchee.

13 (k) The GT Report represented that Dolchee provided gaming analytical software to  
14 Garden City. The GT Report concluded that the gaming analytical software's fair value  
15 was \$29.5 million. The GT Report was false and misleading with respect to the so-called  
16 "gaming analytical software." The agreement between Dolchee and Garden City granted  
17 a license to play the Dolchee Games. That agreement provided nothing for, and did not  
18 mention, gaming analytical software. In response to the Bureau's request that he "state  
19 the reasons for the payments and the amounts of any payments that were not made under  
20 the terms of the License Agreement," Swallow provided no reasons thus indicating that all  
21 payments from Garden City to Dolchee were under the agreement's terms. At the  
22 Commission's February 21, 2013 meeting, Swallow stated that Dolchee developed a  
23 baccarat game for use at Garden City, which had paid \$5 million for the right to use that  
24 game. Garden City's financial statements for 2009, 2010, 2011, and 2012 reported the  
25 payments to Dolchee as "licensed game fees." Dolchee's tax returns listed its principal  
26 business activity as "game patent holdings."

27 (l) In connection with his license application, Swallow provided the Bureau with  
28 attachments showing that Airport Parkway's loan balance on 1887 Matrix Boulevard was

1 \$2,869,702.50. In truth, Airport Parkway had entered into commercial loans exceeding  
2 \$23 million that were secured by, among other things, its real and personal property,  
3 including any leases for 1887 Matrix Boulevard, as well as all securities owned by  
4 Swallow, Peter Lunardi, and Jeanine Lunardi. Additionally, according to filings with the  
5 California Secretary of State, Garden City's personal property secured payment of at least  
6 one commercial loan provided to Airport Parkway.

7 **FIFTH CAUSE FOR DISCIPLINE**  
8 **AGAINST RESPONDENT SWALLOW'S LICENSE**

9 **(Failure To Provide Information and Documentation Requested by the Chief)**

10 45. Swallow's license is subject to discipline, pursuant to Business and Professions Code  
11 sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).  
12 Swallow's continued licensure is inimical to public health, safety, and welfare. Swallow is not  
13 a person of good character, honesty, and integrity and his prior activities pose a threat to the  
14 effective regulation and control of controlled gambling, and create or enhance the dangers of  
15 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and  
16 financial arrangements incidental to the conduct of controlled gambling. Swallow, or his  
17 agents, failed to provide information and documents requested by the Bureau acting on the  
18 Complainant's behalf. Specifically, the information and documents requested, but not  
19 provided, included, among other things and without limitation, the following:

20 (a) The Bureau requested that Swallow state whether monies provided by his and  
21 Peter Lunardi's affiliates in connection with acquisition, construction, or improvement of  
22 1887 Matrix Boulevard were gifts, investments, or capital contributions. The amounts  
23 totaled more than \$2 million. Swallow failed to provide the requested information.

24 (b) The Bureau requested that Swallow provide copies of any security agreement and  
25 financing statement relating to any collateral that was personal property given for each  
26 loan made in connection with 1887 Matrix Boulevard's acquisition, construction, or  
27 improvement. Swallow failed to provide the requested documents.

1 (c) The Bureau asked Swallow whether any loans entered into in connection with  
2 1887 Matrix Boulevard's acquisition, construction, or improvement were collateralized  
3 with or secured by any assets or property held by Garden City. The Bureau requested  
4 that, if so, Swallow provide copies of all documents relating to the loans. Swallow failed  
5 to provide the requested information and documents.

6 (d) The Bureau requested that Swallow provide copies of certain documents relating  
7 to loans or indebtedness made or incurred by Casino M8trix, Inc. in connection with 1887  
8 Matrix Boulevard's acquisition, construction, or improvement that was secured or  
9 collateralized with personal property. Swallow provided some, but not all, documents.

10 (e) The Bureau asked Swallow to provide certain information with respect to games  
11 licensed to Garden City for play including, among other things, the name and GEGA  
12 number of each game. Swallow failed to provide all information.

13 (f) The Bureau asked Swallow to provide specific information with respect to each  
14 game licensed to Garden City by Dolchee. The requested information included the  
15 game's name, GEGA number and the date of approval for play, the date the game was  
16 first played, and patent information. Swallow failed to provide any of the requested  
17 information.

18 (g) The Bureau requested Swallow to provide copies of all documents relating to or  
19 evidencing monies that he or any of his affiliates paid to or received from certain entities.  
20 Swallow failed to provide any of the requested documents.

21 (h) The Bureau requested Swallow to provide information about, including  
22 agreements or invoices underlying, payments received by him or any of his affiliates or  
23 immediate family from any third-party provider of proposition player services or any  
24 person or entity affiliated with a third-party provider of proposition player services.  
25 Swallow failed to provide the requested information and documents.

26 (i) The Bureau requested Swallow to provide the written accountant's opinion that he  
27 had represented to the Commission existed. Despite multiple requests, Swallow did not  
28 provide the requested written opinion. Ultimately, Swallow advised that the written



1 opinion did not exist as previously represented and, in effect, confirmed that he had  
2 provided false or misleading information to both the Bureau and the Commission.

3 (j) The Bureau requested Swallow to provide an accountant's fair market  
4 determination of certain transactions with affiliates. The Bureau specifically requested a  
5 valuation based upon what a willing buyer or user would pay to a willing seller or vendor  
6 dealing at arms' length when neither was acting under compulsion to enter into the subject  
7 transactions. Swallow failed to provide the requested fair market valuation. Instead, as  
8 alleged in paragraph 44 above, he caused the GT Report, which is false and misleading, to  
9 be provided to the Bureau.

10 **SIXTH CAUSE FOR DISCIPLINE**  
11 **AGAINST RESPONDENT SWALLOW'S LICENSE**  
12 **(Unqualified for Licensure)**

13 46. Swallow's license is subject to discipline, pursuant to Business and Professions Code  
14 sections 19823 and 19857, subdivisions (a) and/or (b). Swallow's continued licensure is  
15 inimical to public health, safety, and welfare. Swallow is not a person of good character,  
16 honesty, and integrity and his prior activities pose a threat to the effective regulation and control  
17 of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal  
18 practices, methods, and activities in carrying on the business and financial arrangements  
19 incidental to the conduct of controlled gambling. In addition to the acts and omissions alleged  
20 above, Swallow's conduct in his affairs demonstrates that he is unqualified for licensure. That  
21 conduct includes, among other things and without limitation, the following:

22 (a) Swallow, directly or through his agents, repeatedly provided false or misleading  
23 information to the City of San Jose. This included, without limitation and as an example  
24 only, on September 23, 2010, at 9:06 a.m., Swallow sending an email to Deanna Santana,  
25 City of San Jose. He attached what he represented to be a "signed contract" and wrote:  
26 "Please note the significant amount of money we are spending." The attachment included  
27 "Appendix A Hardware Costs," which showed a total of \$358,615.71. Appendix A,  
28

1 however, had been altered by \$300,000 – i.e., from \$58,615.71 to \$358,615.71. Later, at  
2 11:20 a.m. on the same day, Swallow emailed instructions to one of Garden City's agents  
3 to send the edited Appendix A to the City of San Jose.

4 (b) On May 7, 2012, during a residency audit conducted by the California Franchise  
5 Tax Board (FTB), Swallow represented that he was on the board of directors of Garden  
6 City but "not a working/licensed on site employee." He also represented that he did not  
7 have a license to work on the Garden City premises, had surrendered his employee license  
8 in 2008, and was "no longer allowed to work on site." He further represented that he had  
9 a settlement agreement with the City of San Jose under which he surrendered the license.  
10 He additionally represented that he was not involved in the operations of Garden City and  
11 did not spend any time there. Swallow has been licensed continuously by the  
12 Commission since 2007. Neither the Commission nor the City of San Jose prevented him  
13 from being on Garden City's premises. Moreover, despite these representations to the  
14 FTB, Swallow has asserted that he has worked tirelessly to turn Garden City into a  
15 successful and profitable endeavor. He further has asserted that he has worked hard to  
16 revitalize, and has been a watchful steward of, Garden City by improving and streamlining  
17 its business operation, training its workforce, and expanding its customer base.

18 (c) Swallow, directly or through agents, made false and misleading statements to the  
19 Commission. Among other things, Swallow represented to the Commission that an  
20 accounting firm had provided the pricing model that was used to determine what to charge  
21 Garden City for Profitable Casino's software and Dolchec's games. Swallow further  
22 represented that he had a written opinion of value from his accountant's firm. These  
23 representations were false. Swallow's accountant represented that measures put in place  
24 by Swallow and Peter Lunardi increased profits, or "the bottom line," by \$13 million  
25 between 2008 and 2009. In truth, the net profits – i.e., the bottom line – declined from  
26 approximately \$1.7 million in 2008 to approximately \$37,000 in 2009. That was a 97.8  
27 percent decline. As a further example, Swallow represented to the Commission that he  
28 had documents evidencing certain consulting services provided by Casino M8trix, Inc. to

1 Dolchee, as well as a contract for the payment of approximately \$6 million by Dolchee for  
2 those services. Despite his agreeing to do so, Swallow never provided such documents or  
3 contract to the Bureau or the Commission.

4 (d) Swallow, directly or through agents, engaged in patterns and practices that  
5 demonstrate a substantial disregard for prudent and usual business controls and oversight.  
6 His patterns and practices included creating layers of entities and self-dealing. His  
7 patterns and practices also included financial dealings involving millions of dollars that  
8 were not documented. Such undocumented transactions include, among others and  
9 without limitation, paying consulting fees without written consulting agreements, paying  
10 rents without leases, making equity contributions without related written agreements,  
11 advancing or providing monies for the benefit of affiliates without notes or similar written  
12 agreements, paying out millions of dollars without invoices, engaging in transactions with  
13 related parties at unfair and inflated prices, and reporting inaccurate and incomplete  
14 information to governmental agencies.

15 (e) Swallow, directly or through agents, submitted fraudulent information to state and  
16 federal taxing authorities. Examples include, but are not limited to, matters alleged in this  
17 subparagraph. Swallow was designated as Dolchee's "Tax Matters Partner." For 2010,  
18 Garden City's financial statements reported payments totaling approximately \$8.7 million  
19 to Dolchee, which reported approximately \$6.5 million in gross receipts on its federal tax  
20 return — a \$2.2 million or 33.8 percent under-reported difference. On the same return,  
21 Dolchee reported that it paid, and therefore deducted, \$3.2 million for "consulting"  
22 services. In response to the Bureau's request, Swallow provided information regarding  
23 the consulting fees. That information demonstrated that (1) approximately \$500,000 in  
24 fees were paid without invoice or written agreement and (2) \$2,750,000 was paid pursuant  
25 to a settlement agreement, which did not denominate the payments as being for consulting  
26 services. The lawsuit that was settled alleged an entitlement to what in effect were finders  
27 fees; such fees properly are amortized, and not expensed. Importantly, Dolchee was not a  
28 party to the settlement. In 2011, Garden City's financial statements reported payments

1 totaling \$11.8 million to Dolchee, which reported approximately \$11.4 million in gross  
2 receipts on its federal tax return. On the same return Dolchee reported that it paid, and  
3 therefore deducted, \$1.1 million for rent and \$5.7 million for "consulting" services. In  
4 response to the Bureau's request, Swallow provided information showing that Dolchee  
5 funded \$7,650,000 as "Equity Funding Contribution[s]" for 1887 Matrix Boulevard.  
6 Swallow also responded that all funds for Casino M8trix, Inc. to pay rent to Airport  
7 Parkway came from Dolchee. Casino M8trix, Inc. paid more than \$7.3 million in rent in  
8 2011. Neither equity contributions nor monies advanced, loaned, or otherwise provided to  
9 another entity to use for its own purposes or benefit are deductible. Moreover, the sum of  
10 the "Equity Funding Contributions" and deductions taken on Dolchee's tax return exceed  
11 its reported income for 2011 by more than \$3 million or 26.7 percent.

12 (f) Swallow aided, facilitated, turned a blind eye to, or benefited from Team View  
13 Player Services's violations of the Act or regulations adopted pursuant to the Act.

14 (g) Swallow aided, facilitated, turned a blind eye to, or benefited from accounting for  
15 self-dealing and related party transactions, and the self-dealing itself, that had the effect of  
16 minimizing payments to be made to charity pursuant to the settlement reached with the  
17 City of San Jose. Through the self-dealing and concomitant accounting, Swallow  
18 facilitated Garden City's failure to abide by, and perform, the covenant of good faith and  
19 fair dealing inherent in its settlement agreement with the City of San Jose.

20 (h) Swallow aided, facilitated, turned a blind eye to, or benefited from acts and  
21 omissions that violated San Jose Municipal Code, title 16.

22 (i) Swallow aided, facilitated, turned a blind eye to, or benefited from monies derived  
23 from the play or carrying on of a controlled game that were paid indirectly to the Swallow  
24 Trust and/or Deborah Swallow, and neither was licensed as required under the Act.  
25  
26  
27  
28

1 **SEVENTH CAUSE FOR DISCIPLINE**  
2 **AGAINST RESPONDENT SWALLOW'S LICENSE**

3 **(Disqualified for Licensure)**

4 47. Swallow's license is subject to discipline, pursuant to Business and Professions Code  
5 sections 19823 and 19859, subdivision (a). Swallow's continued licensure is inimical to public  
6 health, safety, and welfare. Swallow is not a person of good character, honesty, and integrity  
7 and his prior activities pose a threat to the effective regulation and control of controlled  
8 gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods,  
9 and activities in carrying on the business and financial arrangements incidental to the conduct of  
10 controlled gambling. Swallow knew of, should have known of, was willfully ignorant of,  
11 allowed to occur, assisted, abetted and/or tolerated the acts and omissions alleged above. He  
12 fostered a culture of operating in disregard of the laws applicable to gambling.

13 **EIGHTH CAUSE FOR DISCIPLINE**  
14 **AGAINST RESPONDENT PETER LUNARDI'S LICENSE**

15 **(Unqualified for Licensure)**

16 48. Peter Lunardi's license is subject to discipline, pursuant to Business and Professions  
17 Code sections 19823 and 19857, subdivisions (a) and/or (b). Peter Lunardi's continued  
18 licensure is inimical to public health, safety, and welfare. Peter Lunardi is not a person of good  
19 character, honesty, and integrity and his prior activities pose a threat to the effective regulation  
20 and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or  
21 illegal practices, methods, and activities in carrying on the business and financial arrangements  
22 incidental to the conduct of controlled gambling. In addition to the acts and omissions alleged  
23 above, Peter Lunardi's conduct demonstrates that he is unqualified for licensure. That conduct  
24 includes, among other things and without limitation, the following:

25 (a) Peter Lunardi, directly or through agents, engaged in, aided, or accepted the  
26 benefits of patterns and practices that demonstrate a substantial disregard for prudent and  
27 usual business controls and oversight. Those patterns and practices included creating  
28 layers of entities and self-dealing. Those patterns and practices also included financial

1 dealings involving millions of dollars that were not documented. Such undocumented  
2 transactions include, among others and without limitation, paying consulting fees without  
3 written consulting agreements, paying rents without leases, making equity contributions  
4 without related written agreements, advancing or providing monies for the benefit of  
5 affiliates without notes or similar written agreements, paying out millions of dollars  
6 without invoices, engaging in transactions with related parties at unfair and inflated prices,  
7 and reporting inaccurate and incomplete information to governmental agencies.

8 (b) As a member of Dolchec, Peter Lunardi benefited from Swallow, or their agents,  
9 submitting fraudulent information to state and federal taxing authorities. Examples  
10 include, but are not limited to, matters alleged above in paragraph 46(e). That paragraph  
11 is incorporated herein by reference.

12 (c) Peter Lunardi aided, facilitated, turned a blind eye to, or benefited from Garden  
13 City's and Swallow's violations of the Act or regulations adopted pursuant to the Act.  
14 Peter Lunardi knew or should have known, facilitated, or turned a blind eye to, or  
15 benefited, or stood to benefit, from the acts and omissions alleged in paragraphs 44(a),  
16 44(e), 44(f), 44(g), 44(h), 44(k), 44(l), 46(a), 46(c), 52, and 53. Those paragraphs are  
17 incorporated herein by reference.

18 (d) Peter Lunardi aided, facilitated, turned a blind eye to, or benefited from Team  
19 View Player Services's violations of the Act or regulations adopted pursuant to the Act.  
20 He signed the contract with Team View Player Services on behalf of Garden City.  
21 Through the Lunardi Trust and the distributions or dividends paid through Dolchec and  
22 Potere, he benefited, or stood to benefit, from payments received by Garden City that were  
23 prohibited by Business and Professions Code section 19984, subdivision (a).

24 (e) Peter Lunardi aided, facilitated, turned a blind eye to, or benefited from the  
25 accounting for self-dealing and related party transactions, and the self-dealing itself, that  
26 had the effect of minimizing payments to be made to charity pursuant to the settlement  
27 reached with the City of San Jose. Through the self-dealing and concomitant accounting,  
28 Peter Lundardi facilitated and aided Garden City's failure to abide by, and perform, the

1 covenant of good faith and fair dealing inherent in its settlement agreement with the City  
2 of San Jose.

3 (f) Peter Lunardi aided, facilitated, or turned a blind eye to, or benefited from acts and  
4 omissions that violated San Jose Municipal Code, title 16. Those acts and omissions are  
5 alleged in paragraphs 46(a), 52, and 53 of this Accusation and incorporated herein by  
6 reference.

7 (g) Peter Lunardi aided, facilitated, or turned a blind eye to monies derived from the  
8 play or carrying on of a controlled game that was paid indirectly to the Swallow Trust  
9 and/or Deborah Swallow, and neither was licensed as required under the Act.

10 **NINTH CAUSE FOR DISCIPLINE**  
11 **AGAINST RESPONDENT PETER LUNDARDI'S LICENSE**  
12 **(Disqualified for Licensure)**

13 49. Peter Lunardi's license is subject to discipline, pursuant to Business and Professions  
14 Code sections 19823, 19859, subdivision (a), and 19920. Peter Lundardi's continued licensure  
15 is inimical to public health, safety, and welfare. Peter Lunardi is not a person of good character,  
16 honesty, and integrity and his prior activities pose a threat to the effective regulation and control  
17 of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal  
18 practices, methods, and activities in carrying on the business and financial arrangements  
19 incidental to the conduct of controlled gambling. Peter Lunardi knew of, should have known  
20 of, was willfully ignorant of, allowed to occur, assisted, abetted and/or tolerated the acts and  
21 omissions alleged in paragraphs 43, 44(a), 44(d), 44(e), 44(f), 44(g), 44(h), 44(k), 44(l), 46(a),  
22 46(c), 46(d), 46(e), 52, and 53. Those paragraphs are incorporated herein by reference. He  
23 fostered a culture of operating in disregard of the laws applicable to gambling.

**TENTH CAUSE FOR DISCIPLINE  
AGAINST RESPONDENT JEANINE LUNARDI'S LICENSE  
(Unqualified for Licensure)**

50. Jeanine Lunardi's license is subject to discipline, pursuant to Business and Professions Code sections 19823 and 19857, subdivisions (a) and/or (b). Jeanine Lunardi's continued licensure is inimical to public health, safety, and welfare. Jeanine Lunardi is not a person of good character, honesty, and integrity and her prior activities pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. In addition to the acts and omissions alleged above, Jeanine Lunardi's conduct in her affairs demonstrates that she is unqualified for licensure. That conduct includes, among other things and without limitation, the following:

(a) Jeanine Lunardi, directly or through agents, engaged in, aided, or accepted the benefits of patterns and practices that demonstrate a substantial disregard for prudent and usual business controls and oversight. Those patterns and practices include creating layers of entities and self-dealing. Those patterns and practices also included financial dealings involving millions of dollars that were not documented. Such undocumented transactions include, among others and without limitation, paying consulting fees without written consulting agreements, paying rents without leases, making equity contributions without related written agreements, advancing or providing monies for the benefit of affiliates without notes or similar written agreements, paying out millions of dollars without invoices, engaging in transactions with related parties at unfair and inflated prices, and reporting inaccurate and incomplete information to governmental agencies.

(b) Jeanine Lunardi benefited from Swallow, or their agents, submitting fraudulent information to state and federal taxing authorities. Examples include, but are not limited to, matters alleged above in paragraph 46(e). That paragraph is incorporated herein by reference.



1 (c) Jeanine Lundardi aided, facilitated, turned a blind eye to, or benefited from  
2 Garden City's and Swallow's violations of the Act or regulations adopted pursuant to the  
3 Act. Jeanine Lundardi knew or should have known, facilitated, or turned a blind eye to, or  
4 benefited, or stood to benefit, from the acts and omissions alleged in paragraphs 44(f),  
5 44(l), 46(a), 52, and 53. Those paragraphs are incorporated herein by reference.

6 (d) Jeanine Lunardi aided, facilitated, turned a blind eye to, or benefited from Team  
7 View Player Services's violations of the Act or regulations adopted pursuant to the Act.  
8 Through the Lunardi Trust and distributions and dividends paid to Peter Lunardi's  
9 affiliates, she benefited, or stood to benefit, from payments received by Garden City that  
10 were prohibited by Business and Professions Code section 19984, subdivision (a).

11 (e) Jeanine Lunardi aided, facilitated, turned a blind eye to, or benefited from the  
12 accounting for self-dealing and related party transactions, and the self-dealing itself, that  
13 had the effect of minimizing payments to be made to charity pursuant to the settlement  
14 reached with the City of San Jose. Through the self-dealing and concomitant accounting,  
15 Jeanine Lundardi facilitated and aided Garden City's failure to abide by, and perform, the  
16 covenant of good faith and fair dealing inherent in its settlement agreement with the City  
17 of San Jose.

18 (f) Jeanine Lunardi aided, facilitated, turned a blind eye to, or benefited from acts  
19 and omissions that violated San Jose Municipal Code, title 16. Those acts and omissions  
20 are alleged in paragraphs 46(a), 52, and 53 of this Accusation and incorporated herein by  
21 reference.

22 **ELEVENTH CAUSE FOR DISCIPLINE**  
23 **AGAINST RESPONDENT JEANINE LUNDARDI'S LICENSE**  
24 **(Disqualified for Licensure)**

25 51. Jeanine Lunardi's license is subject to discipline, pursuant to Business and  
26 Professions Code sections 19823, 19859, subdivision (a), and 19920. Jeanine Lundardi's  
27 continued licensure is inimical to public health, safety, and welfare. Jeanine Lundardi is not a  
28 person of good character, honesty, and integrity and her prior activities pose a threat to the

1 effective regulation and control of controlled gambling, and create or enhance the dangers of  
2 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and  
3 financial arrangements incidental to the conduct of controlled gambling. Jeanine Lunardi knew  
4 of, should have known of, was willfully ignorant of, allowed to occur, assisted, abetted and/or  
5 tolerated the acts and omissions alleged in paragraphs 43, 44(f), 44(l), 46(a), 46(d), 46(e), 52,  
6 and 53. Those paragraphs are incorporated herein by reference. She fostered a culture of  
7 operating in disregard of the laws applicable to gambling.

8  
9 **TWELFTH CAUSE FOR DISCIPLINE**  
10 **AGAINST RESPONDENT LUNARDI TRUST'S LICENSE**  
11 **(Unqualified for Licensure)**

12 52. The Lunardi Trust's license is subject to discipline, pursuant to Business and  
13 Professions Code sections 19823 and 19857, subdivisions (a) and (b). The Lunardi Trust's  
14 continued licensure is inimical to public health, safety, and welfare. Its prior activities pose a  
15 threat to the effective regulation and control of controlled gambling, and create or enhance the  
16 dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the  
17 business and financial arrangements incidental to the conduct of controlled gambling. Pursuant  
18 to Business and Professions Code section 19852, subdivision (e), the Lunardi Trust is not  
19 eligible for continued licensure because its trustees are disqualified or unqualified from holding  
20 a state gambling license. Additionally, the Lunardi Trust's trustees conducted Garden City's  
21 business in substantial disregard of prudent and usual business controls and oversight. The  
22 Lunardi Trust assisted and facilitated transactions that were fraudulently reported to federal and  
23 state taxing authorities. The Lunardi Trust also allowed the play of games at Garden City that  
24 were not approved by the Bureau or City of San Jose. Such play constituted an unsuitable  
25 gaming activity (Cal. Code Regs., tit. 11, § 2070, subd. (b)) and violates the City of San Jose's  
26 laws.  
27  
28

**THIRTEENTH CAUSE FOR DISCIPLINE  
AGAINST RESPONDENT GARDEN CITY'S LICENSE  
(Unqualified for Licensure)**

53. In addition to discipline for having a direct or indirect interest in the funds wagered, lost, or won by a third-party provider, Garden City's license is subject to discipline, pursuant to Business and Professions Code sections 19823 and 19857, subdivisions (a) and (b). Garden City's continued licensure is inimical to public health, safety, and welfare. Its prior activities pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. Pursuant to Business and Professions Code section 19852, subdivision (a), Garden City is not eligible for continued licensure because its shareholders, officers, and directors are disqualified from holding a state gambling license. Additionally, Garden City's owners conducted its business in substantial disregard of prudent and usual business controls and oversight. Garden City assisted and facilitated transactions that were fraudulently reported to federal and state taxing authorities. Garden City also allowed the play of games that were not approved by the Bureau or City of San Jose. Such play constituted an unsuitable gaming activity (Cal. Code Regs., tit. 11, § 2070, subd. (b)) and violates the City of San Jose's laws.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Commission issue a decision:

1. Revoking or suspending California State Gambling License Number GEGE-000410, issued to Garden City, Inc., doing business as Casino M8trix;
2. Fining Garden City, Inc., doing business as Casino M8trix, in an amount according to proof and to the maximum extent allowed by law;
3. Revoking or suspending California State Gambling License Number GEOW-001330, issued to Eric Swallow;

1 4. Fining Eric Swallow in an amount according to proof and to the maximum extent  
2 allowed by law;

3 5. Revoking or suspending California State Gambling License Number GEOW-001331,  
4 issued to Peter Lunardi;

5 6. Fining Peter Lunardi in an amount according to proof and to the maximum extent  
6 allowed by law;

7 7. Revoking or suspending California State Gambling License Number GEOW-003119,  
8 issued to Jeanine Lunardi;

9 8. Fining Jeanine Lunardi in an amount according to proof and to the maximum extent  
10 allowed by law;

11 9. Revoking or suspending California State Gambling License Number GEOW-003259,  
12 issued to the Lunardi Family Living Trust, dated August 27, 2008;

13 10. Fining the Lunardi Family Living Trust, dated August 27, 2008, in an amount  
14 according to proof and to the maximum extent allowed by law;

15 11. Awarding Complainant the costs of investigation and costs of bringing this  
16 Accusation before the Commission, pursuant to Business and Professions Code section 19930,  
17 subdivisions (d) and (f), in a sum according to proof; and

18 12. Taking such other and further action as the Commission may deem appropriate.

19  
20 Dated: May 2<sup>nd</sup>, 2014



WAYNE J. QUINT, JR., Chief  
Bureau of Gambling Control  
California Department of Justice

## **EXHIBIT A**

### **Relationships and Cash Flows 2010-2012**

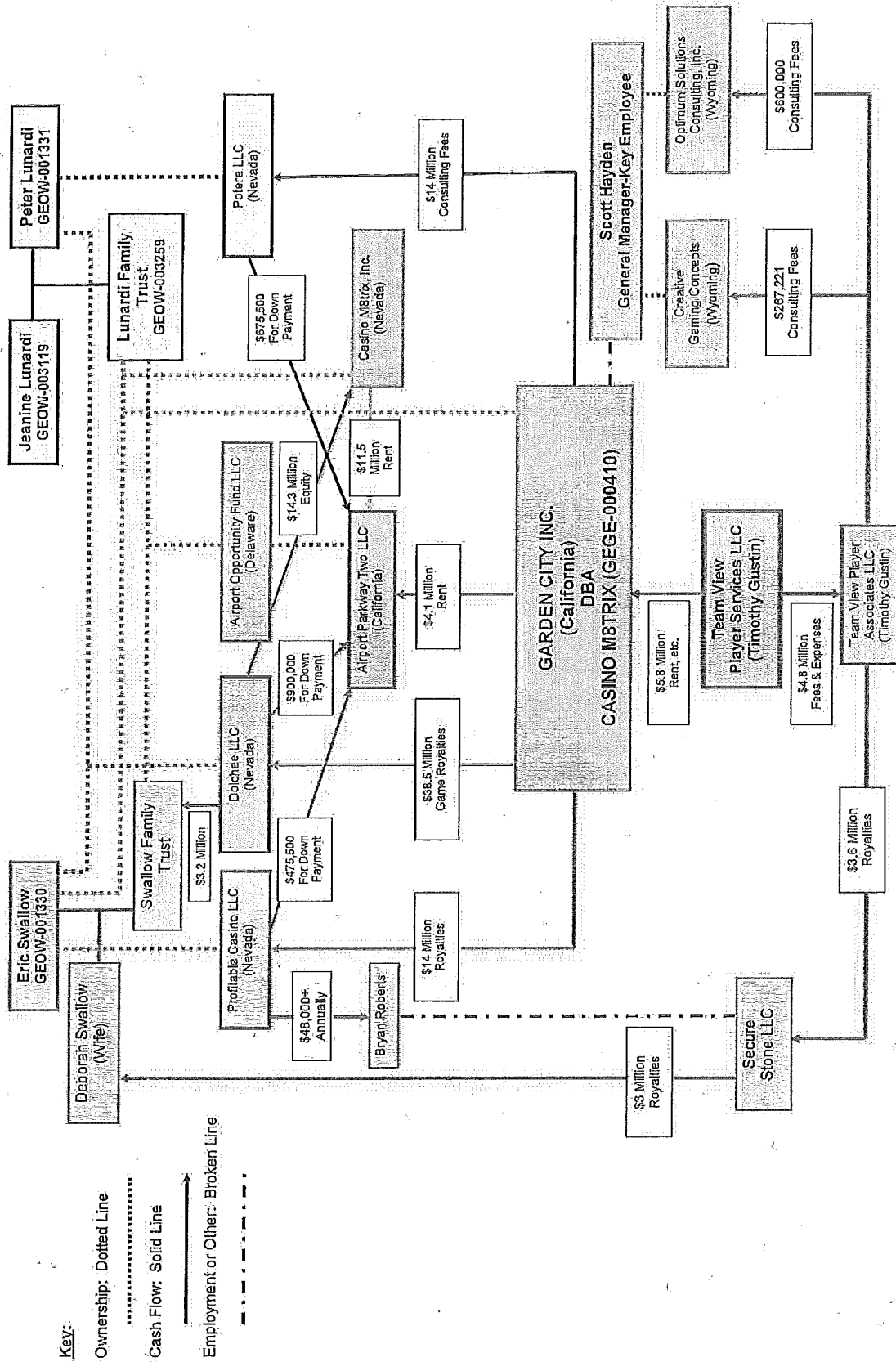


EXHIBIT A TO ACCUSATION: RELATIONSHIPS AND CASH FLOWS 2010-2012